

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

September 5, 2010

Enbridge Energy Partners, LP
c/o Mr. Rich Adams
Vice President, Operations
Superior City Centre
Second Floor 1409 Hammond Avenue
Superior, Wisconsin 54880

Re: Revisions Required to Modifications to Enbridge Energy, Limited Partnership's *Source Area Response Plan* and *Response Plan for Downstream Impact*, pursuant to the Removal Administrative Order issued by U.S. EPA on July 27, 2010, pursuant to §311(c) of the Clean Water Act in Docket No. CWA 1321-5-10-001

Dear Mr. Adams:

By this letter EPA hereby requires revisions to the Modifications to Enbridge Energy, Limited Partnership's *Source Area Response Plan* and *Response Plan for Downstream Impact*, submitted to EPA by Enbridge on September 3, 2010. Please make changes to the Modifications consistent with Attachment A to this letter by 5pm Monday, September 6, 2010, and begin implementing the work immediately. I encourage your representative to contact me immediately if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Dollhopf", is written over a horizontal line.

Ralph Dollhopf
Federal On-Scene Coordinator and Incident Commander
U.S. EPA, Region 5

cc: L. Kirby-Miles, U.S. EPA, ORC
J. Cahn, U.S. EPA, ORC
J. Kimble, U.S. EPA Dep. IC, FOSC
M. Durno, U.S. EPA Dep. IC, Section Chief
Records Center, U.S. EPA, Region 5

ATTACHMENT A

Revise the document to include the following language:

Introduction

At the Enbridge Oil Spill, the United States Environmental Protection Agency (EPA) is proceeding under Section VI. of the 1997 Programmatic Agreement on Protection of Historic Properties During Emergency Response Under the National Oil and Hazardous Substances Pollution Contingency Plan (“Programmatic Agreement”), since circumstances dictate that the response at the Spill must be taken so expeditiously that normal consideration of the Section 106 process is not reasonably practicable.¹ In a letter dated August 31, 2010, EPA issued a Supplemental Notice of Required Modifications to Enbridge’s *Source Area Response Plan* and *Response Plan for Downstream Impact*. Specifically, EPA required Enbridge to modify each Plan by describing the steps Enbridge will take to assure compliance with the National Historic Preservation Act (NHPA) and its implementing regulations, including at a minimum, a limited “Stage 1b Survey”.

Because activities are currently underway at all 5 Divisions of the Response Zone at the Spill, Enbridge will approach compliance by: (A) identifying historic properties (see Section VI.C of the Programmatic Agreement); (B) focusing on areas where response activities have been taken to date; (C) focusing on areas where activities are ongoing and; (D) focusing on areas where future response activities will be taken.

(A) Identifying historic properties

(1) Enbridge shall consult with the Michigan State Historic Preservation Office (SHPO), landowners and/or land managers, and appropriate tribes and other interested parties. Enbridge shall build on information already gathered by EPA from the Office of the State Archaeologist. Enbridge shall also consult with the Office of the State Archaeologist (underground and underwater historic properties) and the SHPO (above ground and above water historic properties). A map and accompanying list of known /previously identified historic properties in the Enbridge Oil Spill response zone (all areas in Divisions A-E within 200 feet of the creek or river, and all areas where supporting response activities such as staging areas, “Frac City” and the Incident Command Post) shall be provided by Enbridge to EPA by the **close of business on Wednesday, September 8, 2010**. The list of known /previously identified historic properties shall describe the general nature of the historic property. If newly discovered or unanticipated potential historic properties are encountered during the survey and response activities, Enbridge shall verbally inform the Federal OSC **within 24 hours and immediately**

¹ The Section 106 process is generally explained on the website for the Michigan State Historic Preservation Office (part of the Michigan State Housing Development Authority) at: http://www.michigan.gov/mshda/0,1607,7-141-54317_54371-57477--,00.html.

either consult with the SHPO to determine if the property is eligible for inclusion on the National Register of Historic Places or treat the property as eligible.

(B) Areas where response activities have been taken to date

By the **close of business on September 10, 2010**, Enbridge shall provide EPA with a Report regarding response activities taken to date at known /previously identified historic properties (see A, above) in the Enbridge Oil Spill response zone. The report shall include a map and accompanying list demonstrating the location of each known /previously identified historic property. The report shall also describe the response activities taken, and the nature of the known /previously identified historic properties effected.

(C) Areas where response activities are currently ongoing

Enbridge shall review all response activities currently ongoing in the Enbridge Oil Spill response zone and provide a report to EPA by the **close of business on September 10, 2010**, evaluating whether or not continuation of the response activities might adversely affect known /previously identified historic properties (see A, above), and if so, how such effects will be avoided or reduced. The report shall include a map and accompanying list demonstrating the location of each historic property affected by current response activities. The report shall also describe the response activities being taken, the nature of the historic properties affected and an opinion by Enbridge regarding whether or not the affect on the historic property has been adverse.

(D) Areas where future response activities will be taken

Enbridge shall complete a Stage 1a survey of all historic properties (see A, above) in the Enbridge Oil Spill response zone by the **close of business September 10, 2010**. For all appropriate locations, Enbridge shall conduct a Stage 1b survey by the **close of business on September 20, 2010**. [INSERT THE LANGUAGE FROM THE 9/3/10 SUBMITTALS HERE]

(E) Other matters

Enbridge shall make arrangements for suspected artifact theft to be reported to the Federal OSC , the SHPO, law enforcement officials, and the landowner/manager **within 24 hours of discovery**.

Enbridge shall arrange for the disposition of records and collected materials.

Enbridge shall ensure the confidentiality of historic property site location information, consistent with applicable laws so as to minimize opportunities for vandalism or theft.

Enbridge shall comply with The Archeological Resources Protection Act (ARPA), 16 U.S.C. § 470aa et seq., the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. § 3001 et seq., the Antiquities Act of 1906, 16 U.S.C. § 433 et seq., and the National Marine Sanctuaries Act o, 16 U.S.C. 1431 et seq. Enbridge shall insure that a copy of all deliverables sent to the SHPO or Advisory Council be sent **simultaneously** to EPA.